

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

David A. Perlson (Bar No. 209502)

3 davidperlson@quinnemanuel.com

Melissa Baily (Bar No. 237649)

4 melissabaily@quinnemanuel.com

John Neukom (Bar No. 275887)

5 johnneukom@quinnemanuel.com

Jordan Jaffe (Bar No. 254886)

6 jordanjaffe@quinnemanuel.com

50 California Street, 22nd Floor

7 San Francisco, California 94111-4788

Telephone: (415) 875-6600

8 Facsimile: (415) 875-6700

9 Attorneys for WAYMO LLC

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

12 WAYMO LLC,

13 Plaintiff,

14 vs.

15 UBER TECHNOLOGIES, INC.;
16 OTTOMOTTO LLC; OTTO TRUCKING
17 LLC,

18 Defendants.

CASE NO. 3:17-cv-00939-WHA

**DECLARATION OF JORDAN JAFFE IN
SUPPORT OF PLAINTIFF WAYMO
LLC'S OPPOSITION TO DEFENDANTS
UBER TECHNOLOGIES, INC. AND
OTTOMOTTO, LLC' MOTION FOR
SUMMARY JUDGMENT, MOTION TO
STRIKE TS 96, AND DAUBERT MOTION
(DKT. 1514)**

**REDACTED VERSION OF DOCUMENT
SOUGHT TO BE FILED UNDER SEAL**

1 I, Jordan Jaffe, hereby declare as follows.

2 1. I am a member of the bar of the State of California and a partner with Quinn
3 Emanuel Urquhart & Sullivan, LLP, counsel for Plaintiff Waymo LLC (“Waymo”). I make this
4 declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and
5 would testify competently as follows.

6 2. Defendants have moved for summary judgment for lack of use of Trade Secret No.
7 96 (“TS 96”). For the reasons described in the accompanying memorandum of law, I respectfully
8 submit that motion should be denied. In the alternative and at a minimum, however, the Court
9 should deny the motion because Waymo cannot yet present all essential facts necessary to justify
10 its opposition in light of the following circumstances.

11 3. Despite diligence on Waymo’s part in discovery, on September 14, 2017, the
12 Federal Circuit affirmed this Court’s rulings with regard to the so-called Due Diligence Report.
13 Thereafter, Uber produced to Waymo that report and certain exhibits thereto, and the three
14 Defendants and Stroz Friedberg then began a rolling production of a large volume of documents.

15 4. As detailed in Waymo’s motion to continue, there appear to be [REDACTED]
16 [REDACTED]
17 [REDACTED].

18 5. Because Waymo has not had the ability to review those documents, take discovery
19 on them or otherwise have its experts analyze the new documents, it cannot yet present all
20 essential facts necessary to justify its opposition to Defendants’ motion for summary judgment.

21 6. Accordingly, pursuant to Federal Rule of Civil Procedure 56(d), the Court should,
22 at a minimum, deny Defendants motion for summary judgment in order to allow Waymo to
23 review the newly produced documents, take resulting discovery, and supplement its expert reports
24 as appropriate.

25 7. Attached as Exhibit 1 is a true and correct copy of a document produced in this case
26 bearing bates number SFM00000044.

27 8. Exhibit 2 is intentionally omitted.
28

1 9. Attached as Exhibit 3 is a true and correct copy of the September 14, 2017 Reply
2 Expert Report of Lambertus Hesselink, Ph.D.

3 10. Attached as Exhibit 4 is a true and correct copy of a document produced in this case
4 bearing bates number UBER00060113.

5 11. Attached as Exhibit 5 is a true and correct copy of a document produced in this case
6 bearing bates number UBER00018016.

7 12. Attached as Exhibit 6 is a true and correct copy of a document produced in this case
8 bearing bates number UBER00199243.

9 13. Attached as Exhibit 7 is a true and correct copy of a document produced in this case
10 bearing bates number WAYMO-UBER-00085723.

11 14. Attached as Exhibit 8 is a true and correct copy of excerpts from the August 16,
12 2017 deposition transcript of Benjamin Ingram.

13 15. Attached as Exhibit 9 is a true and correct copy of the Velodyne HDL-64E S3
14 User's Manual and Programming Guide, available at [http://velodynelidar.com/docs/manuals/63-](http://velodynelidar.com/docs/manuals/63-HDL64ES3g%20USERS%20MANUAL_PROGRAM%20GUIDE,%20HDL-64E%20S3.pdf)
15 [HDL64ES3g%20USERS%20MANUAL_PROGRAM%20GUIDE,%20HDL-64E%20S3.pdf](http://velodynelidar.com/docs/manuals/63-HDL64ES3g%20USERS%20MANUAL_PROGRAM%20GUIDE,%20HDL-64E%20S3.pdf).

16 16. Attached as Exhibit 10 is a true and correct copy of the Velodyne HDL-64E
17 Resource Manual, available at [http://velodynelidar.com/lidar/products/manual/HDLResource%20](http://velodynelidar.com/lidar/products/manual/HDLResource%20Manual_lowres.pdf)
18 [Manual_lowres.pdf](http://velodynelidar.com/lidar/products/manual/HDLResource%20Manual_lowres.pdf).

19 17. Attached as Exhibit 11 is a true and correct copy of excerpts from the June 16,
20 2017 deposition transcript of Gaetan Pennecot.

21 18. Attached as Exhibit 12 is a true and correct copy of Pennecot Deposition Exhibit
22 107.

23 19. Attached as Exhibit 13 is a true and correct copy of documents produced in this
24 case bearing bates numbers UBER00177353 to UBER00177367.

25 20. Attached as Exhibit 14 is a true and correct copy of Haslim Deposition Exhibit 577.

26 21. Attached as Exhibit 15 is a true and correct copy of a document produced in this
27 case bearing bates number UBER00236495.
28

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3
4 DATED: September 18, 2017

/s/ Jordan Jaffe

Jordan Jaffe

5
6
7
8
9
10 **SIGNATURE ATTESTATION**

11 Pursuant to Local Rule 5-1(i)(3), I attest under penalty of perjury that concurrence in the
12 filing of this document has been obtained from Jordan Jaffe.

13
14 /s/ Charles K. Verhoeven

Charles K. Verhoeven